

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

GARY SALTER, on behalf of himself and others	:	CIVIL ACTION
similarly situated,	:	
Plaintiffs,	:	
	:	
v.	:	
	:	NO. 99-1681
PHILADELPHIA HOUSING AUTHORITY et al.,	:	
Defendants.	:	

Memorandum and Order

YOHN, J.

July , 2000

Lead plaintiff Gary Salter (“lead plaintiff” or “Salter”) filed a complaint on behalf of himself and Philadelphia Housing Authority (“PHA”) Section 8 tenants (“plaintiffs”) to enjoin and redress PHA’s practice of terminating Section 8 benefits, without advance written notice and opportunity for a hearing, when a landlord evicted, or obtained a judgment against, a tenant. Plaintiffs’ motion to certify a class action was denied without prejudice to their right to conduct further discovery on the factual basis for a class action and to renew the motion. Plaintiffs have filed an amended complaint and renewed their motion for class certification, seeking to certify a slightly broader class. Defendants have opposed the motion, arguing that the proposed class lacks numerosity and typicality. I will grant the motion to certify the class, noting the right and responsibility of the court to reconsider its decision as the litigation proceeds.

BACKGROUND

Section 8 is a rental assistance program whereby federal money is disbursed to local housing authorities to assist low-income families in paying rent. *See* 42 U.S.C. § 1437f(a) (1994 & Supp. 1999). In Philadelphia, those funds are administered by the Philadelphia Housing Authority (“PHA”). The purpose of Section 8 funding is to make available adequate housing to those who might otherwise not be able to afford it. *See* 42 U.S.C. § 1437f(a). Lead plaintiff is a long-time Section 8 participant. *See* 2d Amend. Compl. ¶ 4 (Doc. No. 41).

In December of 1997, Salter signed a lease agreement to rent an apartment in Philadelphia. *See id.* ¶ 33. Section 8 funds were to be used to pay the rent, and he was responsible for both the security deposit and utility bills. *See id.* ¶ 34. Salter alleges that he stopped making the required payments because the owner failed to maintain properly the apartment. *See id.* ¶¶ 36-37. An eviction action was commenced against Salter in November of 1998. *See id.* ¶ 38. On November 24, 1998, a default judgment was entered against him in that eviction action. *See id.* ¶ 43.

Salter alleges that in January of 1999, he was informed orally that his Section 8 eligibility had been terminated. *See id.* ¶ 45. On January 22, 1999, he requested a termination hearing. *See id.* ¶ 47. No hearing was held. *See id.* ¶ 50. Salter was evicted and rendered homeless. *See id.* ¶¶ 50-54. A class action complaint was filed on April 8, 1999. *See* 1st Amend. Compl. (Doc. No. 6). The complaint sought a preliminary injunction restoring Salter to the Section 8 program, declaratory judgments that federal law had been violated, permanent injunctive relief requiring notice and a hearing prior to any future termination, damages, and attorneys fees. *See id.* At the

same time, plaintiffs filed a motion to certify a class action. *See* Doc. No. 5.

On May 17, 1999, I denied the motion for class certification without prejudice to plaintiffs' right to conduct further discovery within 60 days on class composition (and, in particular, numerosity) and to refile the motion within in 90 days. *See* May 17, 1999 Order (Doc. No. 14). On June 2, 1999, after a conference with counsel, a defense motion to dismiss the class action complaint was denied as moot by agreement because it dealt with Salter's original claims, which had been satisfied when PHA reinstated him and promised him notice and a hearing before any future termination. *See* June 2, 1999 Order (Doc. No. 16).

Defendants then moved to dismiss the action as moot, arguing that because Salter's claims were moot, the action had become so too. *See* Defs. Mot. to Dismiss (Doc. No. 18). That motion was denied on the ground that plaintiffs' motion for class certification was pending at the time Salter's individual claim became moot. *See* Order of Nov. 2, 1999 (Doc. No. 31). Thereafter, extensions were granted to permit additional discovery by plaintiffs. *See* Doc. Nos. 32-34 (Orders of the Court). Discovery on the class questions has now closed. After the court granted leave to file a second amended complaint, plaintiffs did so. *See* Doc. Nos. 36 (moving for leave), 39 (granting leave) & 41 (2d Amend. Compl.).

Before the court is plaintiffs' renewed motion to certify this action as a class action pursuant to Federal Rule of Civil Procedure 23. *See* Pl. Renewed Mot. Class Cert. (Doc. No. 35) [hereafter "Pl. Mot."]. Plaintiffs' motion suggests that between November of 1995 and July of 1998, it was the express policy of PHA to terminate Section 8 benefits, without advance written notice and opportunity for a hearing, for tenants whose landlord either had commenced an eviction action against them or had obtained a judgment against them. *See* Pl. Mot. at 5-6.

Plaintiffs also suggest that, despite a written policy change in July of 1998, PHA continues the practice to date. *See id.* at 6. Defendants have opposed the motion, arguing that a class action may not be maintained for lack of numerosity and typicality. *See* Defs. Ans. to Pl. Renewed Mot. for Class Cert. at 6-12 (Doc. No. 38) [hereafter “Defs. Ans.”]. Plaintiffs filed a reply in support of the motion for class certification. *See* Pl. Reply in Support of Mot. for Class Cert. (Doc. No. 43) [hereafter “Pl. Reply”].

I will grant the motion to certify the class with a date limitation, although I note the right and responsibility of the court to decertify the class or to redefine the class as necessary and appropriate as the litigation progresses.

STANDARD OF REVIEW

Federal Rule of Civil Procedure 23 informs my consideration of a motion to certify a class action. In order to obtain class certification, those seeking certification must demonstrate that all four prerequisites of Rule 23(a), and at least one part of Rule 23(b), have been satisfied. *See Eisen v. Carlisle & Jacquelin*, 417 U.S. 156, 162-63 (1974); *Barnes v. American Tobacco Co.*, 161 F.3d 127, 140 (3d Cir. 1998), *cert. denied*, 119 S. Ct. 1760 (1999); *In re Prudential Ins. Co. of Am. Sales Pracs. Litig.*, 148 F.3d 283, 308-09 (3d Cir. 1998), *cert. denied*, 119 S. Ct. 890 (1999); *Baby Neal v. Casey*, 43 F.3d 48, 55 (3d Cir. 1994). Moreover, a court may only certify a class “after a rigorous analysis.” *General Tele. Co. of the Southwest v. Falcon*, 457 U.S. 147, 161 (1982).

Nonetheless, in deciding a motion for certification of a class action, the court does not

examine the merits of plaintiffs' underlying claims. *See Eisen*, 417 U.S. at 177-78; *Barnes*, 161 F.3d at 140. The court has the discretion and the duty to reassess a class certification decision as the litigation proceeds. *See Fed. R. Civ. P. 23(c)(1) & (4); Barnes*, 161 F.3d at 140.

DISCUSSION

Plaintiffs seek certification of a class comprised of

all Philadelphia Housing Authority . . . Section 8 tenants whose Section 8 services or benefits have been or will be terminated or interrupted, without advance written notice and an opportunity for an administrative hearing, because their landlord has commenced an eviction action or has obtained a judgment against them.

See 2d Amend. Compl. ¶ 1.¹ Defendants argue that “plaintiffs have failed to meet any of the requirements of Rule 23(a) and (b) in order to maintain this suit as a class action.” *See* Defs. Ans. at 5. I will apply those rules to plaintiffs' motion.

I. RULE 23(A): PREREQUISITES TO A CLASS ACTION

¹ Defendants object to this definition on the ground that plaintiffs have expanded the class, not narrowed it as contemplated by the court's Order of May 18, 1999. *See* Defs. Ans. at 5 n.1. By its terms, the Order of May 18, 1999, granted leave to conduct additional discovery “on the numerosity issue, in particular, and any other issues that the plaintiffs feel are relevant in connection with their motion for class certification.” *See* Doc. No. 14. The proper composition of the class is clearly within the contemplation of that Order. Thus, there is nothing improper *per se* in the presentation of the new definition.

The record is devoid, however, of any evidence or allegation that defendants had any practice or policy of improper termination prior to November of 1995. Therefore, I will limit the class to Section 8 tenants terminated for the identified reasons after November 1, 1995.

Before a class may be certified, Federal Rule of Civil Procedure 23(a) mandates a showing of numerosity, commonality, typicality, and adequacy of representation. Specifically, the rule provides:

One or more members of a class may sue or be sued as representative parties on behalf of all only if (1) the class is so numerous that joinder of all members is impracticable, (2) there are questions of law or fact common to the class, (3) the claims or defenses of the representative parties are typical of the claims or defenses of the class, and (4) the representative parties will fairly and adequately protect the interests of the class.

Fed. R. Civ. P. 23(a). Although these four prerequisites overlap, the Third Circuit has noted that there is a conceptual distinction between the first two prerequisites—numerosity and commonality—which evaluate the sufficiency of the class itself, and the last two prerequisites—typicality and adequacy of representation—which evaluate the sufficiency of the named class representatives. *See Hassine v. Jeffes*, 846 F.2d 169, 176 n.4 (3d Cir. 1988). I will consider each of these prerequisites in turn.

A. Numerosity

Rule 23(a)(1) requires a potential class to be “so numerous that joinder of all members is impracticable.” Fed. R. Civ. P. 23(a)(1). When class size is large, numbers alone are generally dispositive. *See* 1 Newberg on Class Actions § 3.03, at 3-17 (3d ed. 1992) [“Newberg”]. For example, “the numerosity requirement is [generally] satisfied where the class exceeds 100 members.” *Kromnick v. State Farm Ins. Co.*, 112 F.R.D. 124, 126 (E.D. Pa. 1986).

Nevertheless, Rule 23(a)(1) “is not a numerosity requirement in isolation.” 1 Newberg § 3.03, at

3-10. This rule imposes an “impracticability of joinder requirement, of which class size is an inherent consideration within the rationale of joinder concepts.” *Id.* at 3-11. A court must evaluate the practicability of joinder in the context of the particular litigation. *See Gurmankin v. Costanzo*, 626 F.2d 1132, 1135 (3d Cir. 1980). The court is to be guided by common sense in this regard. *See In re IKON Office Solutions, Inc., Secs. Litig.*, 191 F.R.D. 457, 462 (E.D. Pa. 2000) [hereafter “*In re IKON*”]. Relevant factors include judicial economy arising from avoidance of a multiplicity of actions, the geographical dispersion of the class, the ease with which class members may be identified, the nature of the action, the size of individual claims, the financial resources of the class members, and the ability of claimants to institute individual suits. *See* 1 Newberg § 3.06 at 3-27 to 3-28; Wright, Miller & Kane, *Federal Practice & Procedure* § 1762 at 188-95 (2d ed. 1986) [hereafter “*Wright et al.*”].

Plaintiffs assert, and produce some evidence, that over 100 people were improperly terminated from the Section 8 program prior to July of 1998, and that improper terminations continued thereafter. *See* Pl. Mot. at 5-6 (citing Exs. B-D). Defendants respond by suggesting that some of the people identified as such were not in fact terminated. *See* Defs. Ans. at 7-8. Even if true, this is not dispositive.

Plaintiffs have alleged and produced evidence that numerous PHA Section 8 tenants were improperly terminated pursuant to an express policy of PHA between November of 1995 and July of 1998. *See* Pl. Mot. Ex. B at 19-24. Further, plaintiffs have alleged and produced evidence permitting the inference that despite a nominal change in policy, the same practice still causes Section 8 terminations for PHA tenants. *See* Pl. Mot. Ex. F at 26. The number of Section 8 participants is sizable. Even if numbers alone are relevant, the class as defined exceeds 100

persons, a class so numerous as to render joinder impractical.

Moreover, Section 8 tenants are low-income by definition. *See* 2d Amend. Compl. ¶ 10. Most will lack the resources to pursue individual actions for relief. The monetary value of any individual claim will often preclude pursuit of a legal action. Further, it is not contested that many will be unsophisticated regarding their legal rights. *See* Pl. Mot. at 8-9. Finally, once terminated, many are not easily identified. *See, e.g.*, Pl. Mot. Ex. B at 54-56. “Impracticable doesn’t mean ‘impossible.’ The representatives of the proposed class need only show that it is extremely difficult or inconvenient to join all members of the class.” *See Kathleen S. v. Department of Pub. Welfare of Pa.*, 97-6610, 1998 U.S. Dist. Lexis 2027, *4 (E.D. Pa. Feb. 25, 1998) (quoting Wright et al. § 1762 at 159). In light of plaintiffs’ showing, I find that the class is so numerous as to render joinder impractical.

B. Commonality

As a prerequisite to class certification, Rule 23(a)(2) requires the existence of “questions of law or fact common to the class.” *See* Fed. R. Civ. P. 23(a)(2). This commonality requirement will be satisfied “if the named plaintiffs share at least one question of fact or law with the grievances of the prospective class.” *See Baby Neal*, 43 F.3d at 56; *see also Barnes*, 161 F.3d at 140 n.15 (finding no error in such a standard). Common questions are those which arise from a “common nucleus of operative facts.” *See Kromnick*, 112 F.R.D. at 128 (internal quotation marks omitted). Because Rule 23(a)(2) requires only a single issue common to all members of the class, the requirement is easily met. *See Baby Neal*, 43 F.3d at 56; *In re IKON*,

191 F.R.D. at 463; 1 Newberg § 3.10, at 3-50. Commonality is not defeated by a showing that “individual facts and circumstances” will have to be resolved. *See Baby Neal*, 43 F.3d at 57; *In re IKON*, 191 F.R.D. at 463.

Plaintiffs identify three common questions of law, namely whether defendants’ alleged practice of terminating Section 8 tenants without written notice and a hearing due to a landlord’s eviction of, or judgment against, a tenant, violates the rights of Section 8 tenants under the Constitution, applicable federal regulations, and relevant contracts. *See* 2d Amend. Compl. ¶ 28.

I find that common questions of law and fact exist as to whether defendants engaged in the alleged course of conduct and, if they did, whether it was a rights violation as alleged.

Compare Hurt v. Philadelphia Housing Authority, 151 F.R.D. 555, 559 (E.D. Pa. 1993).

Although only one common question is needed, several are presented. Therefore, I find that plaintiffs have satisfied the commonality requirement.

C. Typicality

Rule 23(a)(3) mandates a determination of whether or not the “claims or defenses of the representative parties are typical of the claims or defenses of the class.” *See* Fed. R. Civ. P. 23(a)(3). The typicality inquiry required by Rule 23(a)(3) “is intended to assess whether the action can be efficiently maintained as a class and whether the named plaintiffs have incentives that align with those of absent class members so as to assure that the absentees’ interests will be fairly represented.” *See Baby Neal*, 43 F.3d at 57. This inquiry focuses on “whether the named plaintiff’s individual circumstances are markedly different or . . . the legal theory upon which the

claims are based differs from that upon which the claims of the class members will perforce be based.” *See id.* at 57-58 (internal quotation marks omitted). The court must, in effect, discern whether potential conflicts exist within the proposed class. *See Baby Neal*, 43 F.3d at 57; *In re IKON*, 191 F.R.D. at 465. Typicality will be found to exist when the named plaintiffs and the proposed class members “challenge[] the same unlawful conduct.” *See Baby Neal*, 43 F.3d at 58; *In re IKON*, 191 F.R.D. at 465. “Factual differences will not render a claim atypical if the claim arises from the same event or practice or course of conduct that gives rise to the claims of the class members, and if it is based on the same legal theory.” *Baby Neal*, 43 F.3d at 58 (citations omitted); *see also In re Prudential Ins. Co. Am. Sales Prac. Litig. Action*, 148 F.3d at 312 (finding typicality in light of common scheme).

Defendants argue that Salter’s claims are factually distinguishable from those of the absent class members, suggesting that PHA complied with its legal obligations in his case. *See* Defs. Ans. at 9-11. Defendants also argue that Salter was not deprived of due process because he received a notice of termination. *See id.* at 11-12. Plaintiffs contest both of defendants’ arguments. *See* Pl. Reply at 7-9 (Doc. No. 43).

Defendants arguments go to the merits of the action and to Salter’s right to relief. Resolution of these questions is not necessary at this stage of the proceedings. *See Hurt*, 151 F.R.D. at 560. Salter has provided some evidence that without notice and a hearing first, he was terminated from Section 8. He seeks declaratory and injunctive relief on the same legal theories as the class. In short, both Salter and the class challenge the same course of conduct and they do so based on the same legal theories. *See Collier v. Montgomery Cty. Hous’g Auth.*, 192 F.R.D. 176, 183 (E.D. Pa. 2000); *Hurt*, 151 F.R.D. at 560. Therefore, I find Salter’s claims typical of

those of the class members.

D. Adequacy of Representation

Before certifying a class, a court must find that “the representative parties will fairly and adequately protect the interests of the class.” *See* Fed. R. Civ. P. 23(a)(4). The adequacy of representation inquiry has two components designed to ensure that the absentee plaintiffs’ interests are fully pursued. In order satisfy the first component, “the interests of the named plaintiffs must be sufficiently aligned with those of the absentees.” *See Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 635 (1999); *In re IKON*, 191 F.R.D. at 466. In order to satisfy the second component, “class counsel must be qualified and must serve the interests of the entire class.” *See Amchem*, 521 U.S. at 635; *In re IKON*, 191 F.R.D. at 466. The burden is on the defendants to show the inadequacy of representation of a plaintiffs’ class. *See Lewis v. Curtis*, 671 F.2d 779, 788 (3d Cir. 1982).

Defendants do not challenge the adequacy of Salter or of plaintiffs’ counsel. Nevertheless, I must inquire as to both. First, I find that Salter’s interests are sufficiently aligned with those of the class that there is no risk of inadequacy. The same conduct is challenged and the same relief is sought. Second, it appears that counsel are familiar with both the law surrounding Section 8 and the practices of PHA, and seek to secure for all members of the class the promise of advance written notice and the opportunity for a hearing before termination of Section 8 benefits. *See* Pl. Mot. at 13; Pl. Reply at 10 (suggesting that a locator service should be used to identify class members). Therefore, I find that plaintiffs have met the burden of showing

adequacy of representation.

II. RULE 23(B)(2): CLASS ACTIONS MAINTAINABLE

Plaintiffs ask the court to certify the action under Rule 23(b)(2), which permits an action to be maintained as a class action when “the party opposing the class has acted or refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the class as a whole.” *See* Fed. R. Civ. P. 23(b)(2). Plaintiffs must make two showings in order to proceed under Rule 23(b)(2). First, the complaint must seek relief which is predominantly injunctive or declaratory. *See Barnes*, 161 F.3d at 142; 1 Newberg § 4.11, at 4-39. Second, plaintiffs must complain that defendants “acted or refused to act on grounds generally applicable to the class.” Such a showing is made when defendants conduct constitutes a pattern of activity. *See Hurt*, 151 F.R.D. at 560-61; Wright et al. § 1775 at 449. A factual dispute about the existence of a pattern of conduct does not preclude certification. *See Hurt*, 151 F.R.D. at 560-61; *Dickerson v. United States Steel Corp.*, 64 F.R.D. 351, 358 (E.D. Pa. 1998); Wright et al. § 1775 at 457. Also, the claims of the class members must be cohesive. *See Barnes*, 161 F.3d at 143. The essential inquiry is whether relief sought will benefit the entire class. *See Baby Neal*, 43 F.3d at 59; *Kathleen S.*, 98 U.S. Dist. Lexis 2027 at *8.

Plaintiffs have alleged, and produced some evidence, that “demonstrates an ongoing and chronic practice on the part of defendants” of terminating Section 8 tenants without advance written notice and the opportunity for a hearing due to eviction or judgment by a landlord. *See*

Pl. Reply at 5. This is precisely the type of case contemplated by Rule 23(b)(2): A “civil rights case[] seeking broad declaratory or injunctive relief for a numerous and often unascertainable or amorphous class of persons.” *See Barnes*, 161 F.3d at 142 (quoting 1 Newberg § 4.11 at 4-39); *Baby Neal*, 43 F.3d at 58-59; *Collier*, 192 F.R.D. at 184. Moreover, at this stage of the proceedings, the predominant relief requested appears injunctive and declaratory.² Therefore, I find that plaintiffs have demonstrated the propriety of certification under Rule 23(b)(2).

III. MOOTNESS AND STANDING

On June 2, 1999, this court denied as moot a defense motion to dismiss the class action. *See* Order of June 2, 1999 (Doc. No. 16). The motion was dismissed because Salter’s individual claims, which were the subject of the motion to dismiss, had been satisfied. *See id.* On November 2, 1999, I denied defendants’ further motion to dismiss the class action as moot because I determined that Salter had a legally cognizable interest in class certification. *See* Mem. of Nov. 2, 1999 at slip op. at 10 (Doc. No. 31). Therefore, I did not reach the question whether

² The parties do not dispute this proposition, despite plaintiffs’ requests for punitive damages generally and compensatory damages for Salter. One authority has suggested that it is unproductive “for the court to expend time to try to resolve th[e] largely discretionary question” of which form of relief requested predominates in a particular case. *See* 1 Newberg § 4.14 at 4-50 to 4-51. I will defer a decision on the question until a later time when fuller factual development permits a better assessment of which relief predominates. I note that even if claims for monetary relief remain, they are not fatal per se to a Rule 23(b)(2) class certification. *See Williams v. Empire Funding Corp.*, 183 F.R.D. 428, 435-36 (E.D. Pa. 1998) (holding that certification under Rule 23(b)(2) was proper where declaratory relief was sought on behalf of the class and was integral to the ability of plaintiffs to pursue further relief, which they could do in individual actions); *Lloyd v. City of Philadelphia*, 121 F.R.D. 246, 251 (E.D. Pa. 1988) (certifying class under Rule 23(b)(2) where damages were sought but injunctive relief was predominant).

Salter could remain a proper named plaintiff under an exception to the mootness doctrine.

Defendants now argue that they either have remedied or have attempted to remedy any injury suffered by class members. *See* Defs. Ans. at 12-14. They argue that because the class claims have been mooted, and the issue is not capable of repetition yet evading review, that certification may not be granted because no named party presents a live case or controversy. *See id.* at 12-13. Plaintiffs reply by suggesting that “full relief” has not been provided to all class members. *See* Pl. Reply at 9-10.

Whether the claims have been mooted is, of course, relevant to whether this action may be maintained as a class action. It is more properly considered, however, after full briefing by the parties, not cursory treatment in a motion to certify a class. Moreover, plaintiffs have alleged and produced evidence that over 100 Section 8 tenants had their benefits terminated without advance written notice and opportunity for a hearing, in violation of their rights. Defendants brief identifies efforts undertaken, but fails to demonstrate that more than a handful of class members have been given the opportunity for a hearing and possible reinstatement. Also, defendants have not admitted liability as to any period of time. Consequently, because there is evidence that defendants acted in a way generally applicable to a class of persons, in derogation of their rights, and have made only some effort to redress alleged violations, I will not conclude that the class claims are moot as a matter of law.

Nonetheless, Salter’s individual claims have been satisfied. Moreover, it appears possible that, as facts develop, the class identified may need to be decertified or redefined. If that need arises, then any and each subclass created will require a named plaintiff to prosecute the action on its behalf. Further, whether Salter remains a proper named plaintiff, at this juncture after class

certification, is a question which has not been resolved. Consequently, I will order additional briefing by the parties to address the question whether any named plaintiff may properly prosecute this action on behalf of the class and I will consider any proper motion for intervention or joinder of additional parties.

CONCLUSION

Plaintiffs seek to certify a class of all Section 8 tenants whose benefits were improperly terminated or interrupted without advance written notice and the opportunity for a hearing when their landlord either evicted them or obtained judgment against them. Plaintiffs note that such terminations were consistent with the express policy of PHA between November of 1995 and July of 1998. Thereafter, despite a change in written policy, plaintiffs allege the practice of the PHA has remained the same. I find first that both the number and the nature of the class permit the conclusion that the class is so numerous as to make joinder impractical. Second, I find that all class members share several common questions of law and fact, as required to certify a class. Third, I find that Salter's claims are typical of those of the class generally and do not conflict with those claims of absent class members. Fourth, I find that Salter and his counsel are adequate representatives of the class, at least for purposes of this motion. Finally, I find that certification is proper, for now, because defendants have acted in a manner generally applicable to all class members such that injunctive and declaratory relief would be proper if the class claims are proven. Because there is no evidence of any practice of improper termination prior to November of 1995, I will limit the class to those terminated in the relevant manner after

November 1, 1995. Therefore, I will certify the class, reserving the right to reassess the certification decision as the litigation proceeds.

After filing this action and moving for class certification, Salter's individual claims were satisfied. He retained standing, however, to pursue the question of class certification. Because the question whether Salter may continue to represent the class after certification receives only cursory treatment, I will order the parties to brief the question whether Salter remains a proper named plaintiff.

An appropriate order follows.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

GARY SALTER on behalf of himself and others	:	CIVIL ACTION
similarly situated,	:	
Plaintiffs,	:	
	:	
v.	:	
	:	NO. 99-1641
PHILADELPHIA HOUSING AUTHORITY et al.,	:	
Defendants.	:	

Order

And now, this day of July, 2000, upon consideration of the file in this matter, in particular plaintiffs' Second Amended Complaint (Doc. No. 41), plaintiffs' renewed motion for class certification (Doc. No. 35), defendants' opposition thereto (Doc. No. 38), and plaintiffs' reply in support of the motion to certify the class (Doc. No. 43), it is hereby ORDERED AND DECREED that:

1. This action is certified as a class action, the class being comprised of

 Philadelphia Housing Authority Section 8 tenants whose Section 8 services or benefits have been terminated or interrupted since November 1, 1995, without advance written notice and an opportunity for an administrative hearing, because their landlord commenced an eviction action, or obtained a judgment, against them;
2. The court expressly reserves the right, pursuant to Federal Rule of Civil Procedure 23(c)(1) & (4) to reassess both the class definition and certification as the litigation proceeds, until such time as final judgment is entered;
3. Plaintiffs shall, within 20 days of the date of this order, file and serve a brief not exceeding 15 pages, addressing the question whether Gary Salter may continue to prosecute the class action on behalf of the class now that his individual claims have been satisfied. Defendant shall, within 14 days of being served with

plaintiffs' brief, file and serve a response thereto. Plaintiffs may take any other action permitted by law to substitute or add other named plaintiff(s) to this action; and

4. A status conference is scheduled for 3:00 p.m. on July 28, 2000, in Chambers--Room 14613 of the United States Courthouse, 601 Market Street, Philadelphia, Pennsylvania.

William H. Yohn, Jr., Judge